

FILED

CARY EDWARDS
ATTORNEY GENERAL OF NEW JERSEY

January 3, 1989

By: Linda S. Ershow-Levenberg
Deputy Attorney General
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NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS
OAL DOCKET NO. BDS-08177-87

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF :

SEYMOUR BERSHLING, D.C. :

TO PRACTICE CHIROPRACTIC IN :
THE STATE OF NEW JERSEY :

Administrative Action

CONSENT ORDER

This matter was opened to the State Board of Medical Examiners by Cary Edwards, Attorney General of New Jersey, Linda S. Ershow-Levenberg, Deputy Attorney General, appearing, by the filing of an Administrative Complaint. The Complaint alleged that respondent's preparation of patient records was at substantial variance with accepted standards of chiropractic practice, that he failed to document the performance of "initial examinations" for which patients were billed a higher fee, that three patients should have been referred to plenary licensed health care providers, that patients were exposed to unnecessary radiation because of failure

by respondent to collimate the x-ray beam, that the x-rays taken of patients were nondiagnostic and contained pictures of clothing artifacts, that impairment ratings were presented to the patient's insurance company without there being any documentation in the record to show that an impairment rating was actually performed, and that one patient was treated concurrently for conditions resulting from two different automobile accidents, with two separate bills being submitted to the same insurance company. Altogether, the Complaint concerned respondent's treatment of 11 patients.

Respondent acknowledges the deficiencies in his recordkeeping technique during the time period alleged in the Complaint (1981-1986), but asserts that he has taken remedial action and is willing to undertake further education as to proper recordkeeping. He also admits to deficiencies in his x-ray technique and is willing to undertake reeducation in radiography. He maintains that although impairment rating testing was not recorded in patient records, such testing was performed, and that he did refer the three patients in question to physicians although he did not record same in the patients' records. Similarly, he maintains that a thorough initial examination was performed on each patient for whom he billed an initial examination. Finally, respondent denies any intent to defraud the insurance company, and the Board notes the fact that the company has paid respondent for all services rendered to the patients named in the Complaint.

It appearing that the parties are desirous of resolving the within matter without the necessity for further formal proceedings, and it appearing that respondent has read and understands the terms of the within order and consents to be bound by same, and it further appearing to the Board that the within Order is adequately protective of the public interest, and for good cause shown,

IT IS therefore, on this ^{19th} day of *November* 1988,
ORDERED:

1. The license of Seymour Bershling, D.C. to practice chiropractic in the State of New Jersey is hereby suspended for one year, all of which shall be stayed and serve as probation.

2. Seymour Bershling, D.C. shall pay a civil penalty of \$2,500 to the State Board of Medical Examiners by certified check or attorney's trust account draft, within 30 days of the filing date of this Order.

3. Seymour Bershling, D.C. shall undertake the following by way of remedial education:

(a) Respondent shall set up a preceptorship with Robert McCutcheon, D.C. at a fee to be agreed between them. The preceptorship shall run for the period of stayed suspension set forth above. During the first 90 days, there shall be six (6) instructional sessions on the subjects of proper (1) x-ray technique for chiropractic practice and (2) recordkeeping as to initial examinations, tests, impairment ratings, diagnoses, adjustments, progress exams and other treatment of patients. Sessions shall be at times and places mutually agreeable to respondent and the preceptor. A report shall be issued to the Board at the end of the 90 days detailing the education sessions conducted pursuant to section (a) herein above. The preceptor shall give a copy of the report to respondent.

(b) Following the initial 90 days, the preceptor shall perform random spot checks of respondent's x-rays and patient records.

(c) The preceptor shall submit quarterly reports to the Board, with a copy to respondent, describing the spot checks performed and respondent's conformance to acceptable standards.


(d) The last quarterly report shall contain a recommendation as to the necessity for further education on the subjects of x-rays and record-keeping. The Board shall not unreasonably reject such recommendation.

4. Respondent shall note all abnormal medical conditions in the patient record and shall note in the patient record all referrals made to plenary licensed physicians for such conditions.

5. Respondent shall record all impairment rating testing he performs in the patient record and the results of such tests.

6. Respondent's failure to comply with the terms of the within Order shall cause the Attorney General to commence proceedings for activation of the stayed suspension of respondent's chiropractic license.

STATE BOARD OF MEDICAL EXAMINERS

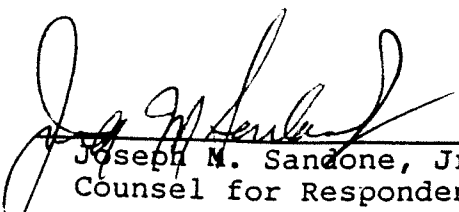


Frank J. Malta, M.D.
President

I have read and I understand the terms of the within Order and I consent to the entry of this Order by the State Board of Medical Examiners.



Seymour Bershling, D.C.



Joseph M. Sandone, Jr., Esq.
Counsel for Respondent

FILED

AUGUST 14, 1987

SANDONE & STOMEL
323 HADDON AVENUE
WESTMONT, NEW JERSEY 08108
Tel. No. 609-858-7000

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC
SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

Administrative Action

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF :
Seymour Bershling, D.C. : ANSWER
TO PRACTICE CHIROPRACTIC IN :
THE STATE OF NEW JERSEY :

Seymour Bershling, D.C. with offices located at Rt. 9
and 3rd Street, Lakewood, New Jersey, by way of Answer to the
Complaint filed herein, says:

COUNT I

1. Paragraph 1 is neither admitted or denied but
leaves the complainant to its proofs.

2. Paragraph 2 is neither admitted or denied but
leaves the complainant to its proofs.

3. Paragraph 3 is admitted.

4. Paragraph 4 is admitted as to the respondent having
provided professional services to Lavenia Fischer but leaves the
complainant to its proofs as to the dates and types of services
provided.

5. Paragraph 5 is denied.
6. Paragraph 6 is denied.
7. Paragraph 7 is denied.
8. Paragraph 8 is denied.
9. Paragraph 9 is denied.

WHEREFORE, respondent demands that this Count of the Complaint be dismissed.

COUNT II

1. The respondent repeats each of the answers provided in Count I as if included as answers in this Count.

2. Paragraph 2 is admitted as to the respondent having provided professional services to Tnessa Fischer but leaves the complainant to its proofs as to the dates and types of services provided.

3. Paragraph 3 is denied.
4. Paragraph 4 is denied.
5. Paragraph 5 is denied.
6. Paragraph 6 is denied.
7. Paragraph 7 is denied.
8. Paragraph 8 is denied.
9. Paragraph 9 is denied.
10. Paragraph 10 is denied.

WHEREFORE, respondent demands that this Count of the Complaint be dismissed.

COUNT III

1. Respondent repeats each and every answer as provided in Counts I and II as if set forth at length in this Count.

2. Paragraph 2 is admitted as to the respondent having provided professional services to Bertha Sotomayor but leaves the complainant to its proofs as to the dates and types of services provided.

3. Paragraph 3 is denied.

4. Paragraph 4 is denied.

5. Paragraph 5 is denied.

6. Paragraph 6 is denied.

7. Paragraph 7 is denied.

8. Paragraph 8 is denied.

9. Paragraph 9 is denied.

10. Paragraph 10 is denied.

WHEREFORE, respondent demands that this Count of the Complaint be dismissed.

COUNT IV

1. Respondent repeats each and every answer as provided in Counts I, II and III as if set forth at length in this Count.

2. Paragraph 2 is admitted as to the respondent having provided professional services to Susan Wright but leaves the complainant to its proofs as to the dates and types of services provided.

3. Paragraph 3 is denied.

4. Paragraph 4 is denied.

5. Paragraph 5 is denied.

6. Paragraph 6 is denied.

7. Paragraph 7 is denied.

8. Paragraph 8 is denied.

WHEREFORE, respondent demands that this Count of the Complaint be dismissed.

COUNT V

1. Respondent repeats each and every answer as provided in Counts I, II, III and IV as if set forth at length in this Count.

2. Paragraph 2 is admitted as to the respondent having provided professional services to Susan Wright but leaves the complainant to its proofs as to the dates and types of services provided.

3. Paragraph 3 is denied.

4. Paragraph 4 is denied.

5. Paragraph 5 is denied.

6. Paragraph 6 is denied.

7. Paragraph 7 is denied.

8. Paragraph 8 is denied.

9. Paragraph 9 is denied.

WHEREFORE, respondent demands that this Count of the Complaint be dismissed.

COUNT VI

1. Respondent repeats each and every answer as provided in Counts I, II, III, IV and V as if set forth at length in this Count.

2. Paragraph 2 is admitted as to the respondent having provided professional services to Gayle Griggs but leaves the complainant to its proofs as to the dates and types of services provided.

3. Paragraph 3 is denied.

4. Paragraph 4 is denied.

5. Paragraph 5 is denied.

6. Paragraph 6 is denied.

7. Paragraph 7 is denied.

WHEREFORE, respondent demands that this Count of the Complaint be dismissed.

COUNT VII

1. Respondent repeats each and every answer as provided in Counts I, II, III, IV, V, and VI as if set forth at length in this Count.

2. Paragraph 2 is admitted as to the respondent having provided professional services to Donna Lazovitch but leaves the complainant to its proofs as to the dates and types of services provided.

3. Paragraph 3 is denied.

4. Paragraph 4 is denied.

5. Paragraph 5 is denied.

6. Paragraph 6 is denied.

7. Paragraph 7 is denied.

8. Paragraph 8 is denied.

WHEREFORE, respondent demands that this Count of the Complaint be dismissed.

COUNT VIII

1. Respondent repeats each and every answer as provided in Counts I, II, III, IV, V, VI and VII as if set forth at length in this Count.

2. Paragraph 2 is admitted as to the respondent having provided professional services to Lisa George but leaves the complainant to its proofs as to the dates and types of services provided.

3. Paragraph 3 is denied.

4. Paragraph 4 is denied.

5. Paragraph 5 is denied.

6. Paragraph 6 is denied.

7. Paragraph 7 is denied.

WHEREFORE, respondent demands that this Count of the Complaint be dismissed.

COUNT IX

1. Respondent repeats each and every answer as provided in Counts I, II, III, IV, V, VI, VII, and VIII as if set forth at length in this Count.

2. Paragraph 2 is admitted as to the respondent having provided professional services to Lisa George but leaves the complainant to its proofs as to the dates and types of services provided.

3. Paragraph 3 is denied.

4. Paragraph 4 is denied.

5. Paragraph 5 is denied.

6. Paragraph 6 is denied.

7. Paragraph 7 is denied.

8. Paragraph 8 is denied.

9. Paragraph 9 is denied.

WHEREFORE, respondent demands that this Count of the Complaint be dismissed.

COUNT X

1. Respondent repeats each and every answer as provided in Counts I, II, III, IV, V, VI, VII, VIII, and IX as if set forth at length in this Count.

2. Paragraph 2 is admitted as to the respondent having provided professional services to Frances George but leaves the complainant to its proofs as to the dates and types of services provided.

3. Paragraph 3 is denied.

4. Paragraph 4 is denied.

5. Paragraph 5 is denied.

6. Paragraph 6 is denied.

WHEREFORE, respondent demands that this Count of the Complaint be dismissed.

COUNT XI

1. Respondent repeats each and every answer as provided in Counts I through X as if set forth at length in this Count.

2. Paragraph 2 is admitted as to the respondent having provided professional services to Frances George but leaves the complainant to its proofs as to the dates and types of services provided.

3. Paragraph 3 is denied.

4. Paragraph 4 is denied.

5. Paragraph 5 is denied.

6. Paragraph 6 is denied.

7. Paragraph 7 is denied.

8. Paragraph 8 is denied.

WHEREFORE, respondent demands that this Count of the Complaint be dismissed.

COUNT XII

1. Respondent repeats each and every answer as provided in Counts I through XI as if set forth at length in this Count.

2. Paragraph 2 is admitted as to the respondent having provided professional services to Frances George but leaves the complainant to its proofs as to the dates and types of services provided.

3. Paragraph 3 is denied.

4. Paragraph 4 is denied.

5. Paragraph 5 is denied.

6. Paragraph 6 is denied.

7. Paragraph 7 is denied.

8. Paragraph 8 is denied.

WHEREFORE, respondent demands that this Count of the Complaint be dismissed.

COUNT XIII

1. Respondent repeats each and every answer as provided in Counts I through XII as if set forth at length in this Count.

2. Paragraph 2 is admitted as to the respondent having provided professional services to Frances George but leaves the complainant to its proofs as to the dates and types of services provided.

3. Paragraph 3 is denied.
4. Paragraph 4 is denied.
5. Paragraph 5 is denied.
6. Paragraph 6 is denied.
7. Paragraph 7 is denied.

WHEREFORE, respondent demands that this Count of the Complaint be dismissed.

COUNT XIV

1. Respondent repeats each and every answer as provided in Counts I through XIII as if set forth at length in this Count.

2. Paragraph 2 is admitted as to the respondent having provided professional services to Frances George but leaves the complainant to its proofs as to the dates and types of services provided.

3. Paragraph 3 is denied.
4. Paragraph 4 is denied.
5. Paragraph 5 is denied.
6. Paragraph 6 is denied.
7. Paragraph 7 is denied.

WHEREFORE, respondent demands that this Count of the Complaint be dismissed.

COUNT XV

1. Respondent repeats each and every answer as provided in Counts I through XIV as if set forth at length in this Count.

2. Paragraph 2 is admitted as to the respondent having provided professional services to Jeff Stevens but leaves the complainant to its proofs as to the dates and types of services provided.

3. Paragraph 3 is denied.

4. Paragraph 4 is denied.

5. Paragraph 5 is denied.

6. Paragraph 6 is denied.

7. Paragraph 7 is denied.

8. Paragraph 8 is denied.

9. Paragraph 9 is denied.

10. Paragraph 10 is denied.

11. Pararaph 11 is denied.

WHEREFORE, respondent demands that this Count of the Complaint be dismissed.

COUNT XVI

1. Respondent repeats each and every answer as provided in Counts I through XV as if set forth at length in this Count.

2. Paragraph 2 is admitted as to the respondent having provided professional services to Ann Richardson but leaves the complainant to its proofs as to the dates and types of services provided.

3. Paragraph 3 is denied.

4. Paragraph 4 is denied.

5. Paragraph 5 is denied.

6. Paragraph 6 is denied.

7. Paragraph 7 is denied.

8. Paragraph 8 is denied.

WHEREFORE, respondent demands that this Count of the Complaint be dismissed.

COUNT XVII

1. Respondent repeats each and every answer as provided in Counts I through XVI as if set forth at length in this Count.

2. Paragraph 2 is admitted as to the respondent having provided professional services to Ann Richardson but leaves the complainant to its proofs as to the dates and types of services provided.

3. Paragraph 3 is denied.

4. Paragraph 4 is denied.

5. Paragraph 5 is denied.

6. Paragraph 6 is denied.

WHEREFORE, respondent demands that this Count of the Complaint be dismissed.

COUNT XVIII

1. Respondent repeats each and every answer as provided in Counts I through XVII as if set forth at length in this Count.

2. Paragraph 2 is admitted as to the respondent having provided professional services to Ann Richardson but leaves the complainant to its proofs as to the dates and types of services provided.

3. Paragraph 3 is denied.
4. Paragraph 4 is denied.
5. Paragraph 5 is denied.
6. Paragraph 6 is denied.

WHEREFORE, respondent demands that this Count of the Complaint be dismissed.

COUNT XIX

1. Respondent repeats each and every answer as provided in Counts I through XVIII as if set forth at length in this Count.

2. Paragraph 2 is admitted as to the respondent having provided professional services to Linet Colon but leaves the complainant to its proofs as to the dates and types of services provided.

3. Paragraph 3 is denied.
4. Paragraph 4 is denied.
5. Paragraph 5 is denied.
6. Paragraph 6 is denied.
7. Paragraph 7 is denied.

WHEREFORE, respondent demands that this entire Complaint be dismissed.

Respectfully submitted,

SANDONE & STOMEL
Attorneys for Respondent

BY:

JOSEPH M. SANDONE, JR.

Dated: 8/11/87

FILED

JUNE 30, 1987

W. CARY EDWARDS
ATTORNEY GENERAL OF NEW JERSEY

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

By: Linda Ershow-Levenberg
Deputy Attorney General
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DEPARTMENT OF LAW & PUBLIC SAFETY
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DOCKET NO.

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF :
Seymour Bershling, D.C. :
TO PRACTICE CHIROPRACTIC :
IN THE STATE OF NEW JERSEY :

Administrative Action
NOTICE OF HEARING
AND
NOTICE TO FILE ANSWER

TO: Seymour Bershling

TAKE NOTICE that a Complaint, copy annexed hereto, has been made to the New Jersey State Board of Medical Examiners to consider the matter of the suspension or revocation of your license to practice chiropractic pursuant to the authority conferred upon the Board by N.J.S.A. 45:9-1 et seq., N.J.S.A. 45:1-14 et seq., laws pertinent to your profession and related administrative regulations. The Board requires you to file an answer to the above

charges within ten (10) days from service of the Complaint. You may file an answer by mail to the address below.


An admission that the Complaint is correct will indicate that you do not contest the charges stated, thus rendering unnecessary any hearing in this proceeding. Your case will then be presented to the State Board of Medical Examiners together with any written matter you may submit with your plea in alleged mitigation of penalty, for a determination as to whether your license to practice should be suspended or revoked or a lesser sanction imposed and whether monetary penalties shall be assessed and, if so, the amount thereof pursuant to the authority conferred upon the Board by N.J.S.A. 45:9-1 et seq. and N.J.S.A. 45:1-14 et seq.

A denial of the Complaint will result in a formal hearing being conducted at a date, time and place to be determined by the New Jersey Board of Medical Examiners which, upon notice to you, will hear the Complaint or refer the matter to the Office of Administrative Law. Adjournments will not be granted except upon timely written application to the Board as a result thereof may be taxed to you. You may appear at the hearing either in person or by attorney or both and you shall be afforded an opportunity to make defense to any or all of the charges.

Failure to respond to this Notice of Hearing and Notice to File an Answer or failure to appear as set forth herein may result in the matter being considered in your absence. A decision

rendered by the Board may affect your privilege to practice your
licensed profession in this State.

STATE BOARD OF MEDICAL EXAMINERS


Charles A. Janousek
Executive Secretary

DATED: *June 30, 1987*

KINDLY ADDRESS AN ORIGINAL AND ONE COPY OF ALL CORRESPONDENCE TO:

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS
28 West State Street - Room 914
Trenton, New Jersey 08608

Tel. (609) 292-4843

WITH A COPY TO:

W. CARY EDWARDS
ATTORNEY GENERAL OF NEW JERSEY
Attention: Linda S. Ershow-Levenberg
Deputy Attorney General
Division of Law - Room 316
1100 Raumont Boulevard
Newark, New Jersey 07102